

aggregation of such items for purposes of reporting, as described in § 301.6114-1(d).

(b) *Penalty waived.* Pursuant to the authority contained in section 6712(b) of the Code, the penalty imposed by paragraph (a) of this section may be waived, in whole or in part, if it is established to the satisfaction of the Assistant Commissioner (International), the District Director or the Director of the Internal Revenue Service Center that the taxpayer's failure to disclose the required information was not due to willful neglect. An affirmative showing of lack of willful neglect must be made in the form of a written statement that sets forth all the facts alleged to show lack of willful neglect and contains a declaration by such person that the statement is made under the penalties of perjury.

(c) *Manner of payment.* The penalty set forth in paragraph (a) of this section shall be paid in the same manner as tax upon the issuance of a notice and demand thereof.

(d) *Effective date.* This section is effective for taxable years of the taxpayer for which the due date for filing returns (without extension) occurs after December 31, 1988.

[T.D. 8292, 55 FR 9441, Mar. 14, 1990]

§ 301.6721-0 Table of Contents.

In order to facilitate the use of §§ 301.6721-1 through 6724-1, this § 301.6721-0 lists the paragraph headings contained in these sections.

§ 301.6721-1 Failure to file correct information returns.

- (a) Imposition of penalty.
 - (1) General rule.
 - (2) Failures subject to the penalty.
- (b) Reduction in the penalty when a correction is made within specified periods.
 - (1) Correction within 30 days.
 - (2) Correction after 30 days but on or before August 1.
 - (3) Required filing date defined.
 - (4) Penalty amount for return with multiple failures.
 - (5) Examples.
 - (6) Applications to returns not due on February 28 or March 15.
- (c) Exception for inconsequential errors or omissions.
 - (1) In General.
 - (2) Errors or omissions that are never inconsequential.

- (3) Examples.
- (d) Exception for a *de minimis* number of failures.
 - (1) Requirements.
 - (2) Calculation of the *de minimis* exception.
 - (3) Examples.
 - (4) Nonapplication to returns not due on February 28 or March 15.
- (e) Lower limitations on the \$250,000 maximum penalty amount with respect to persons with gross receipts of not more than \$5,000,000.
 - (1) In general.
 - (2) Gross receipts test.
- (f) Higher penalty for intentional disregard of requirement to file timely correct information returns.
 - (1) Application of section 6721(e).
 - (2) Meaning of "Intentional disregard."
 - (3) Facts and circumstances considered.
 - (4) Amount of the penalty.
 - (5) Computation of the penalty; aggregate dollar amount of the items required to be reported correctly.
 - (6) Examples.
- (g) Definitions.
 - (1) Information return.
 - (2) Statements.
 - (3) Returns.
 - (4) Other items.
 - (5) Payee.
 - (6) Filer.

§ 301.6722-1 Failure to furnish correct payee statements.

- (a) Imposition of penalty.
 - (1) General rule.
 - (2) Failures subject to the penalty.
- (b) Exception for inconsequential errors or omissions.
 - (1) In general.
 - (2) Errors or omissions that are never inconsequential.
 - (3) Examples.
- (c) Higher penalty for intentional disregard of requirement to furnish timely correct payee statements.
 - (1) Application of section 6722(c).
 - (2) Amount of the penalty.
 - (3) Computation of the penalty; aggregate dollar amount of items required to be shown correctly.
- (d) Definitions.
 - (1) Payee.
 - (2) Payee statement.
 - (3) Other items.

§ 301.6723-1 Failure to comply with other information reporting requirements.

- (a) Imposition of penalty.
 - (1) General rule.
 - (2) Failures subject to the penalty.
 - (3) Exception for inconsequential errors or omissions.
 - (4) Specified information reporting requirement defined.

Internal Revenue Service, Treasury

§ 301.6721-1

(b) Examples.

§ 301.6724-1 Reasonable cause.

- (a) Waiver of the penalty.
 - (1) General rule.
 - (2) Reasonable cause defined.
- (b) Significant mitigating factors.
- (c) Events beyond the filer's control.
 - (1) In general.
 - (2) Unavailability of the relevant business records.
 - (3) Undue economic hardship relating to filing on magnetic media.
 - (4) Actions of the Internal Revenue Service.
 - (5) Actions of agent—imputed reasonable cause.
 - (6) Actions of the payee or any other person.
- (d) Responsible manner.
 - (1) In general.
 - (2) Special rule for filers seeking a waiver pursuant to paragraph (c)(6) of this section.
- (e) Acting in a responsible manner—special rules for missing TINs.
 - (1) In general.
 - (i) Initial solicitation.
 - (ii) First annual solicitation.
 - (iii) Second annual solicitation.
 - (iv) Additional requirements.
 - (v) Failures to which a solicitation relates.
 - (vi) Exceptions and limitations.
 - (2) Manner of making annual solicitations—by mail or telephone.
 - (i) By mail.
 - (ii) By telephone.
- (f) Acting in a responsible manner—special rules for incorrect TINs.
 - (1) In general.
 - (i) Initial solicitation.
 - (ii) First annual solicitation.
 - (iii) Second annual solicitation.
 - (iv) Additional requirements.
 - (2) Manner of making annual solicitation if notified pursuant to section 3406(a)(1)(B) and the regulations thereunder.
 - (3) Manner of making annual solicitation if notified pursuant to section 6721.
 - (4) Failures to which a solicitation relates.
 - (5) Exceptions and limitations.
- (g) Due diligence safe harbor.
 - (1) In general.
 - (2) Special rules relating to TINs.
 - (3) Effective dates.
- (h) Transitional rules for information returns required to be filed (or payee statements required to be furnished) after December 31, 1989 (without regard to extensions), and on or before April 22, 1991.
 - (1) In general.
 - (2) Special rule on TINs.
- (i) [Reserved]
- (j) Failures to which this section relates.
- (k) Examples.
- (l) [Reserved]
- (m) Procedure for seeking a waiver.

(n) Manner of payment.

[T.D. 8386, 56 FR 67182, Dec. 30, 1991, as amended by T.D. 8734, 62 FR 53496, Oct. 14, 1997]

§ 301.6721-1 Failure to file correct information returns.

(a) *Imposition of penalty*—(1) *General rule*. A penalty of \$50 is imposed for each information return (as defined in section 6724(d)(1) and paragraph (g) of this section) with respect to which a failure (as defined in section 6721(a)(2) and paragraph (a)(2) of this section) occurs. No more than one penalty will be imposed under this paragraph (a)(1) with respect to a single information return even though there may be more than one failure with respect to such return. The total amount imposed on any person for all failures during any calendar year with respect to all information returns shall not exceed \$250,000. See paragraph (b) of this section for a reduction in the penalty when the failures are corrected within specified periods. See paragraph (c) of this section for an exception to the penalty for inconsequential errors or omissions. See paragraph (d) of this section for an exception to the penalty for a *de minimis* number of failures. See paragraph (e) of this section for lower limitations to the \$250,000 maximum penalty. See paragraph (f) of this section for higher penalties when a failure is due to intentional disregard of the requirement to file timely correct information returns. See paragraph (a)(1) of § 301.6724-1 for waiver of the penalty for a failure that is due to reasonable cause.

(2) *Failures subject to the penalty*. The failures to which section 6721(a) and paragraph (a)(1) of this section apply are—

- (i) A failure to file an information return on or before the required filing date (“failure to file timely”), and
- (ii) A failure to include all of the information required to be shown on the return or the inclusion of incorrect information (“failure to include correct information”). A failure to file timely includes a failure to file in the required manner, for example, on magnetic media or in other machine-readable form as provided under section 6011(e). However, no penalty is imposed under